

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 17-20544

Honorable David M. Lawson

JOHN CREECH,

Defendant.

ORDER REGARDING MOTIONS *IN LIMINE*

This matter is before the Court on the government's motion to bar the defendant from arguing or introducing evidence to support his affirmative defense of public authority, and the defendant's omnibus motion *in limine* regarding admission and exclusion of various items. The Court has reviewed the submissions of the parties and heard oral argument on May 2, 2019. During the hearing, the Court announced its decisions on each of the issues raised in the motions.

Accordingly, it is **ORDERED** that the government's motion to exclude the public authority defense (ECF No. 52, 54) is **GRANTED IN PART** for the reasons stated on the record. The defendant may not argue or introduce any evidence in support of any affirmative defense on the theories of public authority or entrapment by estoppel, and no jury instruction will be given on either of those topics. However, the defendant will be permitted to present a defense and to introduce pertinent evidence on the theory of innocent intent.

It is further **ORDERED** that the defendant's omnibus motion *in limine* (ECF No. 53) is **GRANTED IN PART** as follows:

1. The defendant's requests to exclude his 1999 and 2010 drug convictions and his manslaughter conviction is **GRANTED**, and the government **SHALL NOT** introduce evidence that he was convicted of those crimes for any purpose.

2. The defendant's request to exclude evidence concerning his alleged shipping of OxyContin to Seattle, personal drug use, spousal abuse, and involvement with the "Mexican Mafia" is **GRANTED**, and the government **SHALL NOT** introduce any evidence or testimony on any of those topics for any purpose.

3. The defendant's request to exclude testimony by his ex-wife under an assertion of the marital communications privilege is **DENIED** without prejudice. The witness may testify about her observations of the defendant and other matters within her personal knowledge, but the government **SHALL NOT** elicit any testimony relating to conversations between the witness and the defendant without first seeking a sidebar conference so that an offer of proof and a ruling on the privilege issue can be made on a separate record.

4. The defendant's request to admit and for the Court to take judicial notice of the judgment of conviction and plea agreement of Kevin Waller from another matter in this district is **DENIED** for the reasons stated on the record.

It is further **ORDERED** that the defendant's motion *in limine* is **DENIED** in all other respects. The admissibility of various instances of other conduct by the defendant will be addressed by the Court in a separate order resolving the government's previously filed motion *in limine* concerning that evidence.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Date: May 3, 2019

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 3, 2019.

s/Susan K. Pinkowski
SUSAN K. PINKOWSKI